

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 436

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO INCOME TAXES; AMENDING SECTION 63-3072, IDAHO CODE, TO  
2 DELETE REFERENCES TO ESTIMATED PAYMENTS AND TO PROVIDE A STATUTE OF  
3 LIMITATIONS WHEN THE STATE TAX COMMISSION HAS MADE AN ASSESSMENT;  
4 DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.  
5

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 63-3072, Idaho Code, be, and the same is hereby  
8 amended to read as follows:

9 63-3072. CREDITS AND REFUNDS. (a) Subject to the provisions of  
10 subsections (b), (c) and (h) of this section, where there has been an  
11 overpayment of the tax imposed by the provisions of this chapter, the amount  
12 of such overpayment shall be credited against any tax administered by the  
13 state tax commission which tax is then due from the taxpayer, and any balance  
14 of such excess shall be refunded to the taxpayer.

15 (b) Except in regard to amounts withheld as provided in section  
16 63-3035, 63-3035A or 63-3036, Idaho Code, or amounts paid as estimated  
17 payments ~~under section 63-3036A, Idaho Code,~~ a claim for credit or refund  
18 of tax, penalties, or interest paid shall be made within the later of three  
19 (3) years of the due date of the return, without regard to extensions, or  
20 three (3) years from the date the return was filed. However, with regard  
21 to remittances received with an extension of time to file, or a tentative  
22 return, a claim for credit or refund of such remittances shall be made within  
23 three (3) years from the due date of the return without regard to extensions.

24 (c) With regard to amounts withheld as provided in section 63-3035,  
25 63-3035A or 63-3036, Idaho Code, or amounts paid as estimated payments ~~under~~  
26 ~~section 63-3036A, Idaho Code,~~ a claim for credit or refund shall be made  
27 within three (3) years from the due date of the return, without regard to  
28 extensions, for the taxable year in respect to which the tax was withheld or  
29 paid.

30 (d) Notwithstanding any other provisions of this section, when Idaho  
31 taxable income and/or tax credits for any taxable year have been adjusted  
32 as a result of a final federal determination, the period of limitations for  
33 claiming a refund or credit of tax, penalties, or interest shall be reopened  
34 and shall not expire until the later of one (1) year from the date of delivery  
35 of the final federal determination to the taxpayer by the internal revenue  
36 service, three (3) years from the due date of the return, without regard  
37 to extensions, or three (3) years from the date the return was filed. For  
38 purposes of this subsection, the term "final federal determination" shall  
39 mean the final resolution of all issues which were adjusted by the internal  
40 revenue service. When the final federal determination is submitted, the  
41 taxpayer shall also submit copies of all schedules and written explanations  
42 provided by the internal revenue service. Upon the expiration of the period

1 of limitations as provided in subsections (b) and (h) of this section,  
2 only those specific items of income, deductions, gains, losses or credits  
3 which were adjusted in the final federal determination shall be subject to  
4 adjustment for purposes of recomputing Idaho income, deductions, gains,  
5 losses, credits, and the effect of such adjustments on Idaho allocations and  
6 apportionments.

7 (e) If a claim for credit or refund relates to an overpayment  
8 attributable to a net operating loss carryback or a capital loss carryback,  
9 in lieu of the period of limitations prescribed in subsection (b) of this  
10 section, the period shall be that period which ends with the expiration of  
11 the fifteenth day of the fortieth month following the end of the taxable year  
12 of the net operating loss or capital loss which results in such carryback.

13 (f) If an adjustment, which was made within the period of limitations  
14 as provided in this section, affects the amount of tax credit, net operating  
15 loss, or capital loss, claimed in a taxable year other than the tax year in  
16 which the adjustment is made, then adjustments to the credit, net operating  
17 loss, or capital loss, claimed in such other tax year may be made and a claim  
18 for credit or refund of tax, penalties or interest may be made even though  
19 such claim would otherwise be barred under the provisions of this section.

20 (g) In the case of a duplicate return filed under section 63-217(1)(b),  
21 Idaho Code, the limitations under this section shall be the later of one (1)  
22 year from the filing of the duplicate return or the date otherwise applicable  
23 under this section.

24 (h) Prior to the expiration of the time prescribed in this section  
25 for credit or refund of any tax imposed by the provisions of this chapter,  
26 both the state tax commission or its delegate or deputy and the taxpayer  
27 may consent in writing to extend such period of time. The period so agreed  
28 upon may be extended by subsequent agreements in writing made before the  
29 expiration of the period previously agreed upon. When a pass-through  
30 entity extends the period of limitations in accordance with the provisions  
31 of this subsection the period of limitations for the other taxpayers is  
32 automatically extended for the same period for the purpose of claiming  
33 a credit or refund of tax, penalties or interest by the other taxpayers  
34 reflecting the pass-through entity adjustments.

35 (i) The expiration of the period of limitations as provided in this  
36 section shall be suspended for the time period between the issuance by the  
37 state tax commission of a notice under either section 63-3045 or 63-3065,  
38 Idaho Code, and the final resolution of any proceeding resulting from the  
39 notice.

40 (j) Appeal of a state tax commission decision denying in whole or in  
41 part a claim for credit or refund shall be made in accordance with and within  
42 the time limits prescribed in section 63-3049, Idaho Code.

43 (k) ~~For purposes of this section, "return" includes a notice of~~  
44 ~~deficiency determination issued by the state tax commission when no return~~  
45 ~~was filed by the taxpayer. Such a return is deemed filed on the date the taxes~~  
46 ~~determined by the state tax commission are assessed~~ Once the tax commission  
47 makes an assessment for a period where a return has not been filed, a credit  
48 or claim for refund may only be made by filing an amended return within three  
49 (3) years from the original due date of the return.

1           SECTION 2. An emergency existing therefor, which emergency is hereby  
2 declared to exist, this act shall be in full force and effect on and after its  
3 passage and approval, and retroactively to January 1, 2010.